

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

PROGRESSIVE INTERNATIONAL CORPORATION,

Plaintiff,

V.

Neway International, Inc.,

Defendant.

Civil Action No.

COMPLAINT FOR PATENT INFRINGEMENT

JURY DEMANDED

Plaintiff Progressive International Corp. (“Progressive”) hereby alleges as follows against Neway International, Inc. (“Neway”).

PARTIES

1. Progressive is a corporation organized and existing under the laws of the state of Delaware having its principal place of business at 20435 72nd Avenue South, Suite 400, Kent, Washington, 98032.

2. Upon information and belief, defendant Neway is a California corporation having a principal place of business at 915 South Azusa Avenue, City of Industry, CA 91748.

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JURISDICTION AND VENUE

3. This action arises under the patent laws of the United States, 35 U.S.C. §§ 271, 281 and 289. Accordingly, original jurisdiction is conferred upon this Court pursuant to 28 U.S.C. §§ 1331.

4. Neway has offered for sale or sold a spoon rest in the United States, including in the Western District of Washington. Neway does business under the trademark "Cook N Home," and operates an Internet site at cooknhome.com. Neway also sells its products online at amazon.com. Neway's online sales efforts are directed to customers nationally, including in the Western District of Washington. The cooknhome.com website is an active site from which its products may be directly purchased using a shopping cart model. The accused spoon rest has been offered for sale nationwide using the shopping cart website, as shown in the image from the website at cooknhome.com.

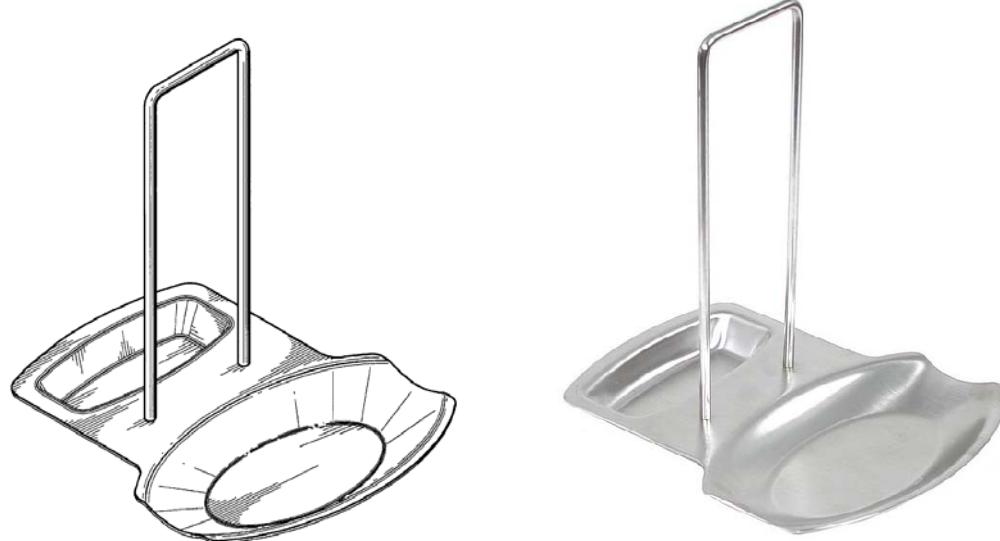


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10 NEWAY'S WRONGFUL CONDUCT

11 10. Neway has made, imported, offered for sale, and/or sold spoon rests that infringe
12 Progressive's patent rights.

13 11. The Neway product, sold under the Cook N Home brand name, is shown below.



25 12. As is clear from the above image, the Neway spoon rest is a close copy of the
26 Progressive spoon rest, and infringes the '427 patent.

1 13. Neway has known that its spoon rests infringe the above Progressive patent. On
 2 November 19, 2015, counsel for Progressive submitted an infringement notice to Amazon.com
 3 to provide notice of the infringement. Neway did not respond to the infringement notice, and has
 4 continued to sell the accused products even after having notice of the infringement.

5 **COUNT I: INFRINGEMENT OF DESIGN PATENT NO. D475,898**

6 14. Progressive repeats the allegations above.

7 15. The accused spoon rests made, offered for sale, sold, and imported by Neway
 8 infringe Progressive's '898 patent.

9 16. Neway has not been granted any license or other authority from Progressive.

10 17. The activities by Neway with regard to its spoon rest products constitute direct
 11 infringement of the '898 patent pursuant to 35 U.S.C. § 271.

12 18. As a direct result of the infringing activity by Neway, Progressive has suffered,
 13 and will continue to suffer, damages in an amount to be established at trial. In addition,
 14 Progressive has suffered, and continues to suffer, irreparable harm for which there is no adequate
 15 remedy at law.

16 19. The infringement by Neway was with full knowledge of the Progressive patent,
 17 and has continued despite that knowledge. Neway's infringement is in willful disregard of
 18 Progressive's patent rights.

19 **REQUEST FOR RELIEF**

20 Progressive requests the following alternative and cumulative relief:

- 21 1. That Neway be preliminarily and permanently enjoined and restrained from
 directly or indirectly making, using, importing, exporting, offering for sale, or
 selling infringing spoon rests or colorable imitations thereof;
- 22 2. That Neway pay damages adequate to compensate Progressive for the
 infringement by the Neway, and in no event less than a reasonable royalty for the
 use of the invention;
- 23 3. That the damages award be trebled pursuant to 35 U.S.C. § 284;
- 24 4. That Progressive be granted its reasonable attorneys' fees pursuant to
 35 U.S.C. § 285 or other applicable laws;

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5. That Progressive be awarded prejudgment interest, postjudgment interest, and costs; and
6. Such other and further relief as the Court may deem just and proper.

JURY DEMAND

Progressive demands a jury trial on all issues triable by jury.

DATED this 20th day of March, 2017.

LOWE GRAHAM JONES PLLC

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